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In the matter of the
Ontario Energy Board Act
and
In the matter of an
application by
The Consumers' Gas Company Ltd.
for
Leave to Construct Transmission
Line in Parkway Belt West

E.B.L.O. 215

REASONS FOR DECISION

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REASONS FOR DECISION

E.B.L.O. 215

IN THE MATTER OF the Ontario Energy
Board Act, R.S.O. 1980, Chapter 332,

AND IN THE MATTER OF section 46 of
the said Act,

AND IN THE MATTER OF an amended Application by The Consumers' Gas Company Ltd. for an Order granting leave to construct a natural gas transmission pipeline.

BEFORE: M. C. Rounding
Presiding Member

P. E. Boisseau
Member

J. K. Shurie
Member

REASONS FOR DECISION

May 5, 1986

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1.0 INTRODUCTION

- 1.1 In these proceedings, the Ontario Energy Board (the "Board" or the "OEB"), was asked to consider a request to grant leave to construct an NPS 36 pipeline to meet a supply need claimed by The Consumers' Gas Company Ltd. ("Consumers", the "Applicant", or the "Company"). Several alternatives were proposed which required an upgrading of the compressors of Union Gas Limited ("Union"), at Lobo on its Dawn to Trafalgar pipeline.
- 1.2 According to Union, the upgrading of the Lobo compressors necessitated that an order be placed with the supplier for the required compressor parts by March 31, 1986. After the hearing, this date was extended to April 14, 1986.
- 1.3 In order to meet this deadline the Board, on April 11, 1986, rendered its Decision with Reasons to follow. In its Decision, the Board

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approved Consumers' amended application for leave to construct a 27 kilometer NPS 36 pipeline within the Parkway Belt West at an estimated cost of \$23.8 million.

- 1.4 Attached to the Board's Decision, and forming part of it, are the Conditions of Approval and the Undertakings agreed to by Consumers' during the hearing.
- 1.5 The Decision (attached hereto as Appendix II), indicated that Reasons for Decision would follow and these are contained herein.

2.0 THE APPLICATION

2.1 Consumers' filed an application (the "initial application") with the Board pursuant to Section 46 of the Ontario Energy Board Act (the "Act"), for an Order granting leave to construct an NPS 36 high pressure natural gas transmission pipeline within an area known as the Parkway Belt West, which is located to the north and west of the Municipality of Metropolitan Toronto. The proposed pipeline was to be approximately 40 kilometers in length and the estimated cost, including some necessary modifications to Union's facilities, was about \$32 million.

2.2 Consumers' justification for the proposed pipeline stemmed from its need to replace compression and exchange services provided under the Storage Transportation Service ("S.T.S.") agreements with Union, which have been in place since

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1977. Demand growth on the Union system is expected to reduce the volumes available to Consumers' under the S.T.S. agreements to the point where Consumers' claimed it must have replacement capabilities before the 1986/87 heating season, and for subsequent years.

- 2.3 Notice of the initial application and of the public hearing were served on affected parties and published as directed by the Board. Appropriate affidavits were filed at the hearing.
- 2.4 As a result of an agreement in principle reached between Consumers' and Union near the end of the first day of the hearing, March 6, 1986 (the "Agreement"), the initial application was amended. The amended application was essentially identical to the initial application, but requested approval of an NPS 36 pipeline to be built over a shorter section of the route proposed initially. The pipeline length in the amended application is 27 kilometers and its estimated cost is \$23.8 million, or about \$8 million less than in the initial application.
- 2.5 The following Reasons for Decision apply to the amended application (the "Application").

3.0 THE ROLE OF THE BOARD

3.1 Section 46(1) of the Act provides that no one shall construct a transmission line without first obtaining from the Board an order granting leave to construct.

3.2 In granting the order, the Board is guided by the public interest and may attach conditions in regard to the protection of the environment and the public.

4.0 THE HEARING

4.1 The hearing was held on March 6 and 7, 1986. During much of the first day negotiations were in progress between the Applicant and Union, directed at arranging compression service from Union to meet some of the Applicant's need.

4.2 Late that afternoon, agreement was reached between Consumers' and Union, and a signed copy of the Agreement was filed. The Agreement stipulates that Union will provide, on a firm service basis, 4,250 10^3 m^3 of gas per day from November 1, 1986 to October 31, 1997.

4.3 Consumers' then amended its initial application reducing the length of pipeline, but maintaining the same diameter (NPS 36).

4.4 The Board decided to proceed on the basis of the revised Application, without the need for a new Notice of Application or Notice of Hearing.

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Appearances

4.5	Donald H. Rogers, Q.C.	Special Counsel to the Board
	Peter Y. Atkinson	Counsel for Consumers'
	John B. Jolley, Q.C.	Counsel for Union
	David Young	Counsel for the Executor of the McKay estate
	James Murray	Counsel for TransCanada PipeLines Limited ("TCPL")
	Kenneth E. McKay	Property Owner, on behalf of himself

Witnesses

For Consumers':

4.6	Duncan M.S. Kent	Manager, Engineering Services, Consumers'
	James R. Hamilton	Assistant to the Vice President of Marketing, Consumers'
	Peter H. Doan	Manager of Financial Studies, Consumers'
	James D. Drysdale	Senior Engineer of Gas Supply Planning, Consumers'
	Gary P. Carroll	General Supervisor, Pipeline Inspection, Consumers'

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Rudolph G. Riedl

Director of Gas Supply,
Consumers'

Gordon S. Davies

Manager of Environmental Services, Acres International Limited ("Acres")

Richard Langstaff

Supervisor, Rights of Way, Consumers'

For Union:

4.7

Barry J. Kemble

Manager, Engineering, Union

George P. Pappas

Senior Station Engineer, Union

Jay M. Wilson

Chief Design Engineer, Gas Turbines, Energy Services Group, Cooper Industries

Other:

4.8

Bernard M. Otis

Senior Manager, Transportation Department, TCPL

5.0 THE ISSUES

Introduction

5.1 The Applicant is supplied with gas by TCPL through TCPL's Northern and Niagara Lines. Gas is also provided to Consumers' system at Lisgar Gate Station ("Lisgar") through the facilities of Union's Dawn/Trafalgar Line.

5.2 The supply agreements Consumers' has with TCPL provide volumes greater than market needs in the summer, and less than those needs in the winter. The excess summer volume is injected into underground storage facilities in South-western Ontario and withdrawn as required during the winter. This gas is transported through Union facilities between Dawn and Lisgar.

The Need

5.3 There is an agreement between Consumers' and Union called the Union Transportation Service ("U.T.S.") contract. The U.T.S. contract provides for transportation of storage gas and other volumes to Lisgar.

5.4 Most of the U.T.S. volume is taken by Consumers' at Lisgar and then distributed to customers located in Metropolitan Toronto.

5.5 The remainder of the gas provided by Union under this agreement is compressed by Union at the Trafalgar Compressor Station ("Trafalgar") and injected into the TCPL pipeline. An equivalent amount is taken by Consumers' from the TCPL system at the Victoria Square and Markham Gate Stations north of Metropolitan Toronto. The agreements covering this transfer are known as S.T.S. agreements. These S.T.S. agreements have served to maximize the use of existing facilities.

5.6 In 1985, projections of Consumers' market demand and Union's increased needs for its own markets, indicated that the S.T.S. volume would be substantially reduced by fiscal year 1988, and would likely be zero by fiscal year 1989.

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5.7 As a consequence, Consumers' submitted that provisions must be made to move the entire U.T.S. volume into the Metropolitan Toronto market.

5.8 In addition, Consumers', Union and TCPL all agreed that the gas facilities in the Lisgar/Trafalgar area are already strained. The Applicant submitted that as a result, a succession of short term solutions to the problem of meeting increased market demand had been required over the years.

5.9 Consumers' concluded that because the previous S.T.S. capability of Union will no longer be available to Consumers', the proposed pipeline is necessary to meet existing customer requirements.

Short Term Need

5.10 The record is not clear on the daily volume requirements. Mr. Hamilton used $7,700 10^3 \text{ m}^3$ in his prefilled testimony, $8,350 10^3 \text{ m}^3$ in his supplementary prefilled testimony, and later testified that Consumers' is looking for 8,000 to $8,500 10^3 \text{ m}^3$ and that he would be "more comfortable" with 8,200 to $8,500 10^3 \text{ m}^3$. Mr. Kemble, in his prefilled testimony on behalf

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of Union, identified $7,847 10^3 \text{m}^3$ per day as the need to be addressed. Special Counsel argued that this requirement is not capable of precise definition, and that any solution that provides a volume of gas in the range $7,700 10^3 \text{m}^3$ per day to $8,500 10^3 \text{m}^3$ per day will meet the needs for the 1986/87 year.

Long Term Need

5.11

Mr. Hamilton testified that Consumers' needs to receive $14,000 10^3 \text{m}^3$ per day at its Victoria Square Gate Station in order to attain its preferred level of operations.

5.12

Special Counsel argued that volumes of $14,000 10^3 \text{m}^3$ per day should more properly be considered as a long term "want" of the Applicant, as opposed to "need", and that the Board should only consider the short term volumetric need when assessing the suitability of the facilities applied for.

Security of Supply

5.13

Also of concern to the Applicant is the question of security of supply for its customers served through Lisgar. This concern was addressed at several points in the hearing by Mr. Hamilton and Mr. Kent.

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5.14 Mr. Hamilton made the point that "we have approximately 80 per cent of the Metropolitan Toronto market riding on deliveries through a single facility [Lisgar]", and another pipeline would significantly increase the security of supply.

5.15 Mr. Kent discussed the eventual need to derate Consumers' existing NPS 30 line, which serves the west part of Metropolitan Toronto, because of a large residential build-up anticipated near the line. Derating requires that the pressure of that pipeline be decreased and, consequently, its capability to serve that market area is reduced.

5.16 No party to the hearing disputed the validity of Consumers' concerns in this regard. Special Counsel argued, however, that such questions do not lend themselves to a quantitative valuation.

The Board's Findings

The Board finds that:

5.17 a) There is a need for $7,700 10^3 \text{ m}^3$ to $8,500 10^3 \text{ m}^3$ per day for the 1986/87 year and beyond, because sufficient gas will no longer be available under the S.T.S. agreements;

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b) The portion of the total need required to be addressed in the Application is calculated as follows:

	Volume in 10^3m^3 per day	
	<u>Low</u>	<u>High</u>
Total capacity needed to replace the S.T.S. volume	7,700	8,500
Maximum capacity provided by Agreement with Union	<u>4,250</u>	<u>4,250</u>
Remaining need to be addressed in Application	3,450	4,250

c) There is a need at this time to address the Applicant's concerns with regard to security of supply;

d) The NPS 30 pipeline will have to be derated as a result of increased urbanization and, while this does not require an immediate response, it is a valid consideration at this time; and

e) The Board will not consider Consumers' long term volumetric requirements in this proceeding.

Alternatives

5.18 All of the alternatives examined that would meet Consumers' volumetric needs for the 1986/87 year, except the one proposed in the Application, relied on Union providing additional short term compression beyond that provided in the Agreement.

5.19 Union's offer of additional short term compression consisted of two elements which could be used singly or together.

Short Term Compression

5.20 The first element of the proposed capacity increase consisted of an upgrading of the Union compressor station at Lobo, on its Dawn to Trafalgar line. This modification comprised a compressor retrofit provided by the Energy Services Group of Cooper Industries.

5.21 The second element of Union's proposal was to move a portable compressor from the Bickford Storage Pool area, following the 1986 storage injection season, and to install it at Trafalgar.

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5.22 Consumers' argued that this offer of short term compression capacity caused it serious concern. Specifically, the proposal was only advanced on March 4, 1986 and, in Consumers' judgement, could therefore not have had the "scrutiny expected for a proposal of this nature". Consumers' argued that "If service is interrupted to Consumers' customers, Consumers' management will be subjected to severe criticism while Union, if its compression service is at fault, will simply be able to claim force majeure". The Applicant also argued against this option on the grounds that the addition of another increment of compression, in the already congested area at Trafalgar, is inferior to the addition of more pipeline. Consumers' expressed concerns about the one year term of the additional compression capacity offered by Union and therefore argued that it would be an inappropriate response to a long standing problem involving Consumers' ability to provide secure service to an important segment of its market.

5.23 Union strongly disagreed with the Applicant's concerns about the upgrade to the Lobo compression facilities and the apparent haste with which the proposal had been put together. In support of its proposal, Union's witnesses

defended the Lobo modifications as based on proven technology which had shown itself to be reliable in four previous installations, two in Alberta and two in the Arab state of Qatar.

5.24 Special Counsel argued that Union's witnesses had put forward convincing arguments in support of its additional short term compression option, saying that it is both straightforward and a commercially proven procedure. He also argued that the modified facilities at Lobo should be as reliable as, if not more reliable than, the present compressors.

5.25 In respect of a portable compressor at Trafalgar, Consumers' argued that Union's reluctance to commit for more than one year made it unattractive. Consumers' also argued that such a device could aggravate an already troublesome noise level at Trafalgar, where urban growth has been such that homes are now very close to the compression facilities.

5.26 Union's witnesses testified that the portable compressor is a very reliable device designed to be moved readily from place to place. Union also testified that the portable compressor would not add to the noise level at Trafalgar, since its high speed generates frequencies that are not troublesome.

Findings of the Board

5.27 The Board has concluded that the proposed augmenting of compression capacity in the Lisgar/Trafalgar area is not a preferred alternative, because it is available only for the short term and it adds further to a complex of facilities which is already congested. The Board finds that the added pipeline capacity is preferable to added compression, as it will reduce the strain on the system and provide the required security of supply.

Other Alternatives

5.28 The following are the alternatives examined at the hearing that would meet Consumers' needs. Except for the Applicant's proposal, they consist of one or both elements of the Union short term compression proposal, together with a variety of additional works.

1. Increased Compression at Lobo Plus 16 Kilometers of NPS 36 Pipeline at an Estimated Cost of \$15.8 Million

5.29 Under this proposal, which came to be known as "Option 2" during the hearing, an NPS 36 pipe-

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line would be built from a westerly point between Eighth Line and Ninth Line south of Steeles Avenue and north of Britannia Road in the Regional Municipality of Halton, to a point some 16 kilometers to the east along Highway 410, and then south to a point on Derry Road where a connecting facility to the existing NPS 30 pipeline would be built. This would necessitate Union implementing the Lobo upgrade.

5.30 This alternative was emphatically rejected by Consumers' for several reasons:

- a) it would entail the construction of 600 meters of pipeline to Derry Road and a regulator station, at a cost of approximately \$1 million, an investment likely to be redundant in one year and as such, would not be a prudent expenditure;
- b) it would constitute no more than an expensive by-pass of Lisgar; and
- c) it would provide about one-quarter of the capacity of the proposed pipeline at about two-thirds of the cost.

5.31 Special Counsel rejected this option on the grounds that it would be an inefficient length of loop.

Findings of the Board

5.32 The Board finds Option 2 to be unacceptable because it would give only one quarter of the capacity of the proposed pipeline for about two thirds of the cost, and would thus lead to more than twice the capital investment per cubic meter of gas transmitted, as compared to the Applicant's proposal.

2. By-Pass of Lisgar Station and Short-Term Compression

5.33 In this alternative, Consumers' would build a short connection between the Union system and the TCPL system at a point where they cross in the Parkway Mini-Belt at Trafalgar. Also, as part of this option, a connection would be installed between TCPL's line and Consumers' NPS 30 line in the same vicinity.

5.34 These connections would provide a by-pass of Lisgar and would permit gas to flow directly from TCPL's Line 1 into Consumers' NPS 30 line.

5.35 The capital cost is estimated to be about one million dollars. This option would also require that Consumers' reach an agreement with Union for short term compression involving both

elements of Union's offer, providing volumes of 3450 to 4250 10^3 m^3 per day.

5.36 Consumers' agreed that this proposed by-pass would satisfactorily address its concerns about the security of Lisgar. However, in addition to its arguments rejecting short term compression, Consumers' pointed out that this by-pass did not address its two concerns about the NPS 30 line:

- a) a by-pass does not provide any increase in the flow rate that will be needed to compensate for the probable derating of the NPS 30 line as urbanization increases around it; and
- b) it does not increase the security of supply to Metropolitan Toronto in the event of third party damage to the NPS 30 line during any kind of construction work.

5.37 Special Counsel argued in favour of this option claiming it gave Consumers' the much desired by-pass of Lisgar, while deferring the larger investment involved in implementing the Applicant's proposed works. Special Counsel thus recommended this alternative and he urged Consumers' to obtain the necessary approvals to construct the by-pass.

Findings of the Board

5.38 While the Board recognizes the importance of the by-pass in relieving the strain in the Lisgar area, this proposal still has the disadvantages inherent in the short term compression offer.

5.39 In addition to the Board's finding against short term compression, the Board finds that this proposal does not appear to improve the security of supply for that part of Metropolitan Toronto served by the NPS 30 pipeline. For these reasons, the Board rejects this alternative.

3. Short Term Compression and the Building of the Kirkwall-Ancaster Pipeline

5.40 This proposal required both the upgrade at Lobo and the installation of the portable compressor at Trafalgar.

5.41 In addition, this option is based on the assumption that for the 1987/88 year and beyond, a pipeline will be built by either Union or TCPL, generally between Kirkwall, on the Dawn/Trafalgar Line, and Ancaster, on TCPL's Niagara Line. This new pipeline would likely be built

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of NPS 36 pipe and, while it would not be built especially for Consumers' needs, would provide a substantial increase in exchange capability, probably sufficient to meet Consumers' volumetric requirements for several years.

5.42 Consumers' objections to the short term implications of this proposal are substantially the same as in the previous alternative. In addition, this proposal would entail postponing for another year a solution to the problem of system strain at Lisgar.

5.43 In respect of the Kirkwall-Ancaster pipeline Consumers', while supporting the project, was not willing to rely on the possibility that it might be built, when planning for the gas needs of the Metropolitan Toronto market. In taking this position, the Applicant relied chiefly on two lines of reasoning:

- a) Both TCPL and Union want to build the line. This being so, Consumers' believes that a dispute will occur between these two companies as to which of them will build the line and which tribunal, the OEB or the National Energy Board, has jurisdiction to approve the facility. Such a dispute, in Consumers' view, would delay

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completion of the line beyond the termination of Union's short term compression offer.

b) This proposal, in effect, asks Consumers' to rely on the terms of an exchange agreement which it has not seen, involving a line which has not been built. It considers this an unacceptable basis for planning gas supply to the Metropolitan Toronto market.

5.44 Consumers' also testified that the building of such a Kirkwall-Ancaster pipeline would not necessarily permit it to derate the NPS 30 pipeline. Furthermore, Mr. Hamilton testified that the Kirkwall-Ancaster pipeline would not alleviate the need for the proposed pipeline, although it could provide capacity to meet future load growth.

5.45 Union emphasized its commitment to build the Kirkwall-Ancaster line for its own needs, and for its ability to alleviate Consumers' volumetric problems. Union also highlighted the cost avoidance for Consumers', if this option were accepted.

5.46 Special Counsel regarded this as preferable to the Applicant's proposal and argued, as in the

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previous alternative, that the public interest would be best served by opting for short-term compression and avoiding the building of the facilities proposed by the Applicant which, he argued, could become redundant in one year.

Findings of the Board

5.47 The Board finds this alternative unacceptable because, in addition to relying on short term compression which the Board finds to be inappropriate at this time, it relies in the longer term on a facility, the Kirkwall-Ancaster pipeline, which at this time has neither been scheduled for a hearing nor approved.

4. Short Term Compression Plus a Doubling of Compression Capacity at Trafalgar

5.48 This alternative, like the two just discussed, depends for the 1986/87 year on both elements of the Union short term compression offering. For the long term, Consumers' considered a doubling of the capacity of the Trafalgar compressor facilities, by installing additional compressors and support facilities of a permanent nature at an estimated cost of \$13.5 million.

5.49 However, Consumers' rejected the addition of any additional compression capacity at Trafalgar on the grounds that it would not provide a by-pass around Lisgar; would not improve security of service to its customers; would not permit derating of the NPS 30 pipeline; and could create a serious noise problem in an area that is now residential in character, as a result of urban build-up.

5.50 Special Counsel made no submissions on this alternative.

Findings of the Board

5.51 The Board does not find this an acceptable alternative because:

- a) It requires short term compression which the Board finds inappropriate at this time;
- b) Because its adoption would prolong the security of supply problems in the Lisgar/Trafalgar area; and
- c) It depends on the construction of compression facilities for long term service, which have not and might not be approved.

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5. The Applicant's Proposal: Construction of a 27 Kilometer NPS 36 Pipeline in the Parkway Belt West Utility Corridor

5.52 This alternative consists of an NPS 36 pipeline located principally within the Parkway Belt West utility corridor, and routed from a westerly point between Eighth Line and Ninth Line, south of Steeles Avenue and north of Britannia Road, to a point south of the intersection of Albion Road and Highway 427, near the C.N.R. tracks. (see Maps in Appendix I)

5.53 The length of the proposed pipeline is approximately 27 kilometers and its estimated cost is \$23.8 million. This pipeline would carry a portion of the U.T.S. volume around Lisgar, then north and east to a point where it would join Consumers' NPS 30 line.

5.54 In Consumers' view, this proposal substantially satisfies its security of supply problems in the west and north of Metropolitan Toronto and reduces the length of NPS 30 pipeline exposed to urbanization concerns.

5.55 Consumers' argued that this alternative satisfactorily addresses the following problems:

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- a) It would provide a by-pass around Lisgar; and
- b) It would permit the derating of the NPS 30 pipeline, from Lisgar to the point where the proposed pipeline connects to the existing one, without affecting the supply of gas to the customers served by the NPS 30 pipeline.

5.56 Consumers' also contended that this is the proposal of management, on whom responsibility ultimately falls for providing adequate security of supply.

5.57 Consumers' submitted that the redundancy arguments of Special Counsel were really rate case arguments, not leave to construct arguments. Further, Mr. Hamilton testified that no redundancy will exist even if the Kirkwall-Ancaster pipeline is built, since both pipelines together would be needed to meet future growth in Consumers' markets.

5.58 Consumers' argued further that the proposed liquefied natural gas ("LNG") plant, if it is built, will address the need for peak shaving, and would therefore not affect the needs addressed in the Application. If the LNG plant

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were not built and Consumers' was forced to rely on increased storage and transportation, Mr. Hamilton testified that the proposed NPS 36 pipeline would be a complementary facility.

5.59 Union did not challenge the technical suitability of the proposed pipeline in respect of the needs identified by Consumers'.

5.60 Union submitted that it is neither supporting nor opposing Consumers' Application, but is presenting an alternative that it believes the Board should have before it.

5.61 Special Counsel argued that any of the alternatives examined can provide satisfactory service for 1986/87 and that none of them demonstrates a clear and distinct advantage.

5.62 Special Counsel stated that the proposed LNG plant, now before the Board, or one of the possible alternatives to that plant, could provide a solution to the problems addressed in the Application.

5.62 Special Counsel submitted that the Applicant's proposal, while it will meet its short term supply requirements, will put facilities in place which may be redundant in the future. He said: "At present, too many uncertainties

exist. ... The construction of a parallel line, the proposed NPS 36 pipeline, is costly and premature and should therefore not be approved by the Board when other solutions such as the construction of the Kirkwall-Ancaster pipeline appear inevitable in the near future."

Findings of the Board

5.63 The Kirkwall-Ancaster pipeline and doubling of compression capacity at Trafalgar (Alternatives 3 and 4), are too uncertain as to approval and timing to form a satisfactory basis for a decision at this time.

5.64 In addition, the evidence is not persuasive that the proposed LNG plant is directly related to this Application. In any event, the future of the proposed LNG facility and the storage/pipeline alternative to it are also too uncertain to provide a satisfactory basis for a decision in respect of this Application.

5.65 Special Counsel recognized that there is a volumetric need. His arguments for rejecting the Application were based on perceived redundancies and uncertainties. The Board has considered these arguments, but is persuaded that the uncertainties are greater with the other alternatives.

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5.66 The Board finds this proposal to be the preferred alternative because:

- a) it satisfies the Applicant's short term volumetric need;
- b) it reduces the strain on the existing facilities in the Lisgar/Trafalgar area;
- c) it will be complementary to the Kirkwall-Ancaster pipeline, if the latter is built;
- d) it allows for the eventual derating of the NPS 30 pipeline, without reducing the volumes available to the customers served by that line; and
- e) it will enhance the security of supply of gas in Metropolitan Toronto.

The Public Interest

5.67 The role that the public interest plays in the Board's decision process was raised by counsel for Consumers' in both his Argument and his reply to the Argument of Special Counsel. In summary, Mr. Atkinson argued as follows:

a) that the Board is to grant leave to construct a transmission pipeline if, in the Board's opinion, the proposed line is in the public interest; and

b) that the matter of whether or not the costs of the proposed pipeline should be included in the rate base of the Company is properly a matter for a subsequent rate hearing, not this leave to construct hearing.

5.68 In so arguing, counsel for Consumers' was presumably concerned about the emphasis placed on the relative cost of the alternatives during the hearing. He submitted that, based on the evidence tendered in the proceeding, the proposal is in the public interest.

5.69 Special Counsel argued that at present, construction of the proposed facilities is not in the public interest when construction of other

facilities may provide a more optimal and less expensive solution to the problem of meeting the Applicant's long term requirements.

Findings of the Board

5.70 In the Board's opinion, the Act (Section 48(8)), requires that the Board assess the proposal against the public interest but does not confine the Board to that test alone. In this Application the Board finds that the pipeline proposed by the Applicant is in the public interest because it addresses, better than any of the available alternatives, the short and long term needs of the Applicant for capacity to transmit and distribute the U.T.S. volume, and at the same time deals satisfactorily with its serious and valid concerns about security of supply.

5.71 On the subject of the appropriate time or forum for a consideration of the costs of a proposed project, the Board considers it pertinent to consider economic matters during a leave to construct hearing. However, the Board recognizes that the question of whether the project is used or useful is properly addressed in a subsequent rate hearing.

Capital Cost and Financeability

5.72 There was no challenge to the validity of Consumers' estimate of the cost of the pipeline nor its ability to finance the construction.

Findings of the Board

5.73 The Board finds that the estimated cost is within the current range for projects of this type and size and that the Applicant's financial integrity would not be impaired by such an investment.

Route Selection

5.74 The proposed pipeline is almost entirely within the Parkway Belt West utility corridor and 90 per cent of the land affected is owned by the Ministry of Government Services of the Province of Ontario ("MGS").

5.75 Before selecting the proposed route Acres, Consumers' environmental consultant, considered two alternate routes which generally made use of existing road allowances, rather than the Parkway Belt West utility corridor. These were ultimately rejected because they offered no relative advantage over the Parkway Belt West, and because construction work on such road allowances would require extensive relocation of other utilities, greatly adding to the construction time and cost, and also to the disruption of the population in the area.

5.76 Consumers' argued that the Parkway Belt West has been established specifically to include, among its goals, the following:

Link urban areas with each other and with areas outside the region by providing space for the movement of people, goods, energy and information, without disrupting community integrity and function.

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5.77 Consumers' argued further that, as a result, the route selected by the Applicant is the best route for the project.

Findings of the Board

5.78 The Board finds that the route selected is satisfactory and is within the range of uses contemplated for this utility corridor.

Environmental Impact

5.79 Acres, at Consumers' request, conducted environmental impact studies and prepared testimony which was filed with the Ontario Pipeline Coordination Committee and the Board. This testimony was tested extensively during the hearing and Consumers' gave certain undertakings as a result.

5.80 Consumers' submitted that no serious issues arose with respect to the environmental aspects of the Application.

5.81 Special Counsel tendered Proposed Conditions of Approval, all of which were accepted by Consumers' during the hearing.

5.82 Special Counsel stated that the Ontario Pipeline Coordination Committee is satisfied that Consumers' has made every effort to address environmental concerns. He also stated that the Applicant's environmental consultant has held a number of meetings with local and regional government personnel to identify and address those concerns and that these meetings had resulted in modifications to Consumers' contract specifications that should minimize environmental impact.

Findings of the Board

5.83 There are no outstanding objections to Consumers' proposed construction and restoration procedures. The Board is satisfied that the environmental impacts will be mitigated satisfactorily, provided that the Conditions of Approval are adhered to during construction and commitments and undertakings made by Consumers' witnesses are fulfilled.

5.84 The undertakings given by Consumers' and the Conditions of Approval are attached as appendices to the Decision in Appendix II and will form part of the Board Order.

Construction Standards and Safety

5.85 Mr. Kent and Mr. Carroll testified that the design and construction will be carried out in accordance with the codes and customary practices governing the installation of gas pipelines in the Province of Ontario.

5.86 Special Counsel examined Mr. Kent on safety practices during construction, with particular reference to the steps to be taken to protect the safety of children during construction and the precautions needed to protect the workers, especially when installing the pipeline near Ontario Hydro's high tension transmission lines. Consumers' gave an undertaking that adequate measures will be taken to ensure the safety of the residents and in particular that of children, who may be attracted to the construction activity, and also to use appropriate and safe methods when construction crews are near high tension electric lines.

Findings of the Board

5.87 The Board is satisfied that the pipeline has been designed and will be built in accordance with the appropriate specifications. The Board directs the Applicant to take the special precautions referred to above and any others indicated by the site and surroundings.

Landowner Concerns and Agreements

5.88 The initial application would have affected eighteen private landowners along its proposed route, in addition to the MGS. The Application, because it involves a shorter pipeline than in the initial application, affects only six landowners and MGS. In addition, the Town of Vaughan in the Regional Municipality of York, which had expressed concerns regarding the initial application, is no longer affected by the pipeline.

5.89 Further, Mr. Kenneth E. McKay, one of the landowners affected by the initial application, who appeared and gave evidence at the hearing, is no longer affected.

5.90 The Acres report on route selection and environmental assessment noted that "possible damage to wells used as drinking water for horses" could result on MGS property leased to Heritage Farms. Also, concern was expressed during the hearing with respect to fencing provisions at Heritage Farms during construction. Consumers' gave an undertaking to accommodate any reasonable requests by Mrs. Mitchell, the operator of Heritage Farms.

REASONS FOR DECISION

5.91 As a result of questioning by Special Counsel, certain concerns were raised about the removal of orchard trees on land leased to Messrs. Ross and Bruce Pengilley. The Applicant gave an undertaking to remove the subject trees if the Application is approved. Also of concern is the possible existence of a perched water table on the same property. The proper handling of this condition, should it be found, is the subject of a Condition of Approval.

Findings of the Board

5.92 The Board is satisfied that all expressed land-owner concerns have been or will be addressed in an acceptable manner.

5.93 The Board finds Consumers' Agreements to Grant Easement and Right of Way to be acceptable in form.

6.0 SUMMARY OF BOARD CONCLUSIONS

6.1 The Board found that for the 1986/87 season and beyond, there is a daily need, not met by Consumers' existing facilities, to provide $3,450 \text{ } 10^3 \text{m}^3$ to $4,250 \text{ } 10^3 \text{m}^3$ of gas to the Metropolitan Toronto market, beyond that provided for in the Agreement with Union.

6.2 The Board found that an offer from Union of additional short term compression capacity is an inappropriate response to Consumers' concerns as to the current strained condition of the facilities around Lisgar and the threat this poses to the security of supply of gas to the Metropolitan Toronto market. As a consequence, the Board found that the proposed alternatives to the Application did not meet the need since they all relied on Union's offer of added short term compression capacity.

REASONS FOR DECISION

6.3 The Board found that the possible doubling of compressor capacity at Trafalgar, the possible building of a pipeline between Kirkwall and Ancaster, the possible LNG plant or some alternative to it, are all too uncertain as to approval and construction to provide a satisfactory basis for a decision to reject the Application.

6.4 The Board found that construction of the NPS 36 pipeline proposed in the Application is in the public interest.

6.5 The Board found the estimated cost of the proposed pipeline to be reasonable for such works and that Consumers' financial integrity would not be impaired by the proposed investment.

6.6 The Board found the proposed route to be satisfactory, that the environmental impacts should be mitigated satisfactorily, and that the construction standards and safety procedures are appropriate.

6.7 The Board found that all expressed landowner concerns have been or will be addressed in an acceptable manner, and that Consumers' Agreements to Grant Easement and Right of Way are acceptable in form.

REASONS FOR DECISION

6.8 The Board grants Consumers' leave to construct the proposed works, subject to the Conditions of Approval and Undertakings which are part of the Board's Decision dated April 11, 1986 and attached to these Reasons for Decision as Appendix II.

REASONS FOR DECISION

7.0 COSTS OF THE BOARD

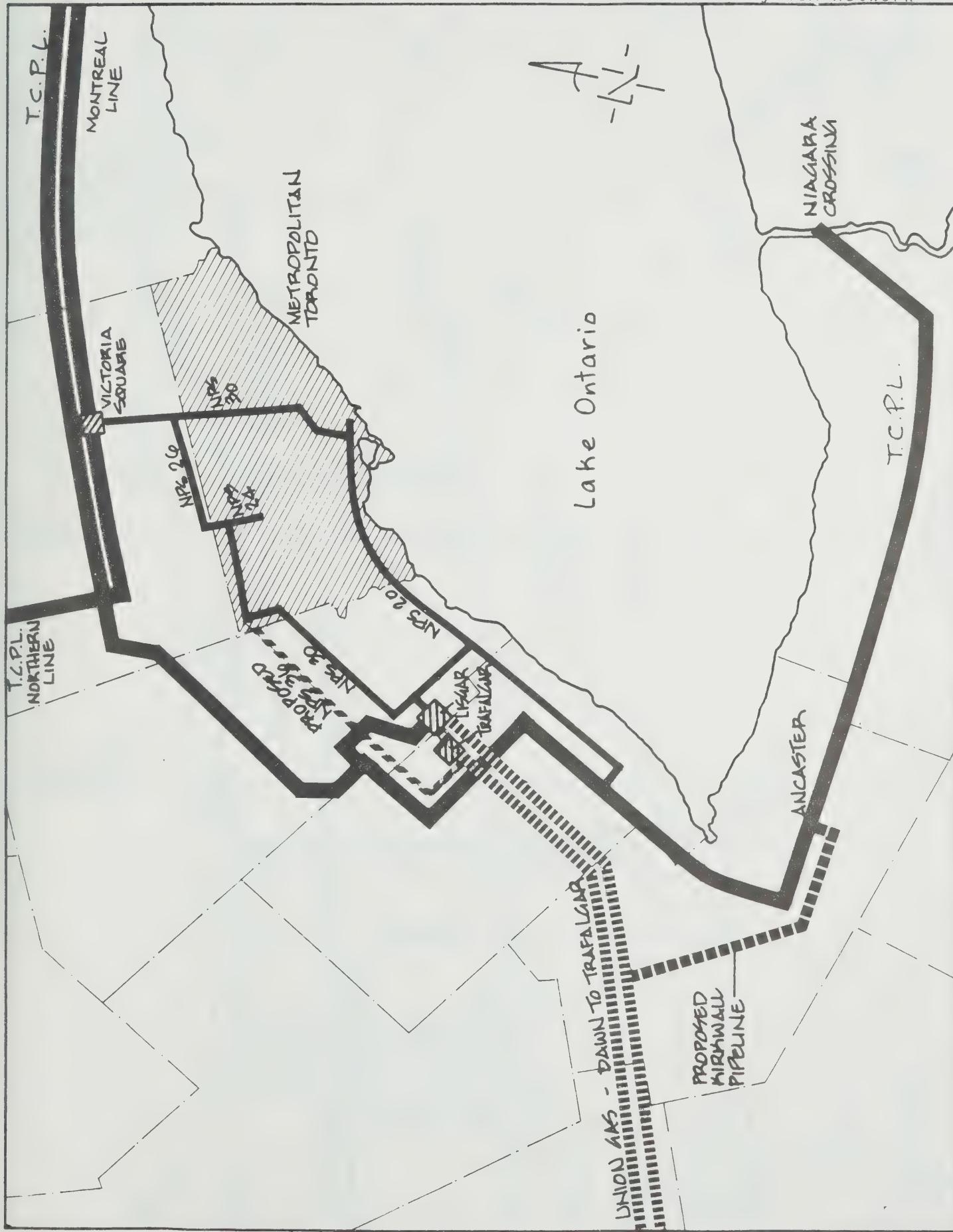
7.1 The Board will make an order charging its costs for this proceeding to Consumers'.

Dated at Toronto, Ontario this 5th day of May, 1986.

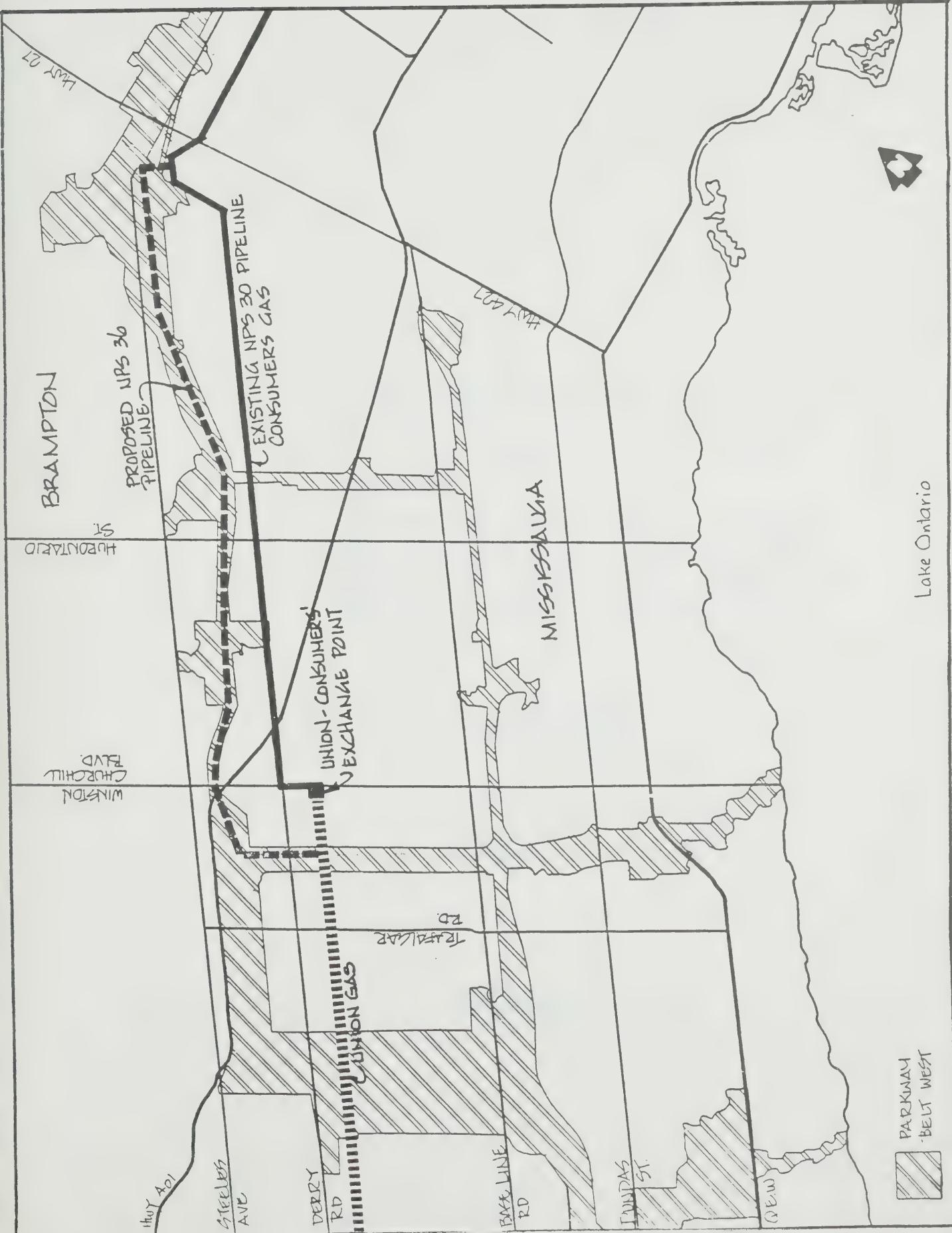
M. C. Rounding
M. C. Rounding
Presiding Member

P. E. Boisseau
P. E. Boisseau
Member

J. K. Shurie
J. K. Shurie
Member



APPENDIX I - Proposed Pipeline



E.B.L.O. 215

IN THE MATTER OF the Ontario Energy Board Act, R.S.O. 1980, Chapter 332;

AND IN THE MATTER OF section 46 of the said Act;

AND IN THE MATTER OF an amended Application by The Consumers' Gas Company Ltd. to the Ontario Energy Board for an Order granting leave to construct a natural gas transmission pipeline.

BEFORE:

M. C. Rounding
Presiding Member

P. E. Boisseau
Member

J. K. Shurie
Member

DECISION

April 11, 1986

DECISION

(Reasons to Follow)

The Ontario Energy Board (the Board) has heard evidence and argument under Board Docket No. E.B.L.O. 215 on an amended application (the Application) by The Consumers' Gas Company Ltd. (Consumers') for leave to construct approximately 27 kilometres (km) of NPS 36 high pressure pipeline (the Pipeline). The Pipeline is to be constructed within an area located to the north and west of the Municipality of Metropolitan Toronto known as the Parkway Belt West. It is to extend from a westerly point between Eighth Line and Ninth Line, south of Steeles Avenue and north of Britannia Road to a point south of the intersection of Albion Road and Highway 427, near the C.N.R. railway tracks. Construction is scheduled to take place between late July and mid-October 1986.

During the hearing on March 6 and 7, 1986, Union Gas Limited (Union) offered Consumers' additional compression capacity such that it would be capable of meeting its customers' requirements for the 1986/87 heating season. To allow sufficient time to upgrade and transfer certain compressors, Union specified March 31, 1986 as the deadline for acceptance of its offer. Subsequent to the hearing, Union extended the deadline to April 14, 1986.

In view of this deadline, the Board has concluded that it should issue this Decision forthwith with Reasons to follow.

The Board finds that:

- 1) The construction of the Pipeline is in the public interest and the Board hereby grants Consumers' leave to construct the Pipeline, subject to Consumers' complying with all the undertakings made by its counsel and witnesses as recorded in the transcript and attached hereto as Appendix A and with the Conditions of Approval attached hereto as Appendix B.
- 2) The form of the easement agreement proposed by Consumers' is acceptable to

the Board and satisfies the requirements of section 48(9) of the Ontario Energy Board Act and is hereby approved.

Reasons for Decision shall be issued shortly and Consumers' is hereby directed to prepare and submit to the Board for approval a draft Order in conformance with this Decision.

Dated at Toronto this 11th day of April, 1986.

M. C. Rounding
M. C. Rounding
Presiding Member

P. E. Boisseau
P. E. Boisseau
Member

J. K. Shurie
J. K. Shurie
Member

UNDERTAKINGS MADE BY CONSUMERS' WITNESSES
AND COUNSEL DURING THE HEARING

1. To comply with the undertakings proposed by Board Staff and set out in Exhibit 35.
2. To have an environmental inspector on site full time during construction and restoration.
3. If, during construction, Consumers' encounters any perched water tables it shall replace the soils in such a way as to restore the original perched water character.
4. To permit the archaeological work suggested by Consumers' consultant to be done at site AjGw-61.
5. To file with the Board a final copy of the archaeological report when it is prepared.
6. If there are two archaeological sites which are close together, to arrange to have the archaeological inspector available in case he is needed for the second site.

7. With respect to the Credit River crossing, to accept Mr. Davies recommendation regarding the particle size to be used for the washed gravel backfill.
8. To accomodate any reasonable requests made by Mrs. Mitchell with respect to her heritage horse farm. In addition, to provide a potable water supply for the residents and horses throughout the period of construction if there are problems with the quality of the water.
9. To file with the Board construction drawings of the five creek crossings referred to on Figure 4.7 of the Acres Environmental Report.
10. To undertake adequate measures to protect the safety of residents in the area along the proposed route and, in particular, the safety of children who may be attracted to the construction activity.
11. To complete an archaeological dig on the east side of the Credit River before construction begins. The area is identified as "High Archaeological Potential" on Fig. 4.4 Exhibit 28 (Route Selection and Environmental Assessment, Parkway Belt West Pipeline).
12. To take such steps as are necessary to ensure the safety of the workers and the electrical system during the construction of the Pipeline near Ontario Hydro's high voltage transmission lines.

CONSUMERS' GAS ~ E.B.L.O. 215
PARKWAY BELT WEST PIPELINE PROPOSAL
CONDITIONS OF APPROVAL

- (a) Subject to Condition (b), Consumers' shall comply with all undertakings made by its counsel and witnesses as recorded in the transcript, and shall construct the Pipeline and restore the land according to the evidence of its witnesses at this hearing.
- (b) Consumers' shall advise the Board or its designated representative of any proposed change in construction or restoration procedures and, except in an emergency, Consumers' shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board or its representative shall be informed forthwith after the fact.
- (c) Consumers' shall furnish the Board's designated representative with every reasonable facility for ascertaining whether the work has been and is being performed according to the Board's Order.

- (d) Both during and after the construction, Consumers' shall monitor its effects upon the land and the environment, and shall file both an interim and a final monitoring report in writing with the Board and the Chairman of the Ontario Pipeline Coordination Committee ("OPCC"). The interim report shall be filed prior to December 1, 1986 and the final report prior to December 1, 1987.
- (e) The interim report shall describe the implementation of Conditions (a) and (b), and shall include a description of the effects noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the construction upon the land and the environment. This report shall describe any outstanding concerns of landowners.
- (f) The final report shall describe the condition of the rehabilitated right-of-way and actions taken subsequent to the interim report. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Further, the final report shall include a breakdown of external costs incurred to date for the authorized project with items of cost associated with particular environmental measures delineated and identified as pre-construction-related, construction-related and restoration-related. Any deficiency in compliance with undertakings shall be delineated and explained.

(g) Consumers' shall commence and complete the construction and restoration of the crossings of the following river, creek, and reservoir within the time periods noted. In addition, Consumers' shall complete the restoration of the river banks within seven days of pipeline installation.

	Allowable Crossing Period	Maximum in-stream construction time
Credit River	June 15 - Aug. 31	4 days
Etobicoke Creek	June 1 - Sep. 30	2 days
Claireville Reservoir	After Sep. 2	5 days

(h) Consumers' shall give the Board and the Chairman of the OPCC 10 days written notice of the commencement of construction of the Pipeline.

(i) Consumers' shall give the Ministry of Natural Resources, the Ministry of the Environment, the appropriate Conservation Authority, the Board and the Chairman of the OPCC 7 days notice prior to the commencement of construction of the watercourses referred to in Condition (g), and confirmation of the schedule 24 hours in advance. The commencement time shall not be changed without notice to the Chairman of the OPCC.

(j) Within a reasonable time after all necessary information becomes available, Consumers' shall file with the Energy Returns Officer a written Post Construction Financial Report. The Report shall indicate the actual capital costs of the

project in the same format as is found in Exhibit 14, Response to Board staff interrogatory 9 and explain all significant variances from the estimates adduced in the hearing.

- (k) Consumers' will offer to each landowner involved an agreement for land use in a form approved by the Board.
- (l) The Leave to Construct granted herein terminates on December 31, 1986, unless the Pipeline is sufficiently completed and available for service by that date.

